



5201 WOODWARD AVENUE, DETROIT, MICHIGAN 48202

NANCY SKOWRONSKI

Director

DOCKET FILE COPY

November 22, 2005

Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

RECEIVED & INSPECTED

NOV 23 2005

FCC - MAILROOM

**Re: Request for Review**

USF Denied Appeal

Form 471 Application Number: 362377

Funding Request Number: 106645

Funding Year: 2003

Applicant Name: Detroit Public Library

Billed Entity Number: 130943

CC Docket No. 02-6

The purpose of this letter is to file an appeal with and submit a "request for review" by the Federal Communications Commission regarding a denial by the Universal Service Administrative Company's School and Libraries Division. This denial is regarding the USAC's June 16, 2005 Notification of Commitment Adjustment Letter for FRN #1006645, Funding Year 2003: 7/1/2003 – 6/30/2004 (Attachment 1), which indicated that funding was reduced for specified ineligible Monitoring and Maintenance costs, to monitor the "health and well being of the Applicant's internet access." The Detroit Public Library (DPL) believes that the SLD has misinterpreted the purpose of "monitoring and maintenance" provided by Merit Network Inc., our service provider (#143004331), and we request a review.

In a letter dated September 30, 2005, "Administrator's Decision on Invoice Appeal" to Merit Network (Attachment #2), the USAC/SLD stated that the "SLD service team has designated these monitoring services as ineligible, hence, that decision will stand. You (Merit Network) have not provided any information on appeal that indicates these services are actually eligible or that we did not have the correct information at the time the invoice was evaluated." The Detroit Public Library is hereby appealing this and requests your review.

(313) 833-3997

Fax: (313) 833-2327

Email: nskowro@detroit.lib.mi.us

No. of Copies rec'd  
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DPL stands behind Merit's appeal letter of September 15, 2004 (Attachment #3), which explains that the term "monitoring fees" has been used for several years on the Merit invoices. Further, in that letter Merit describes the "monitoring fee" as "the annual cost for provisioning and providing end-to-end shared basic conduit Internet access service for individual schools within a district or libraries within a library system. It is not for monitoring bandwidth."

You will also note that in the letter of September 15, 2004, Merit "was not asked to provide any documentation on what constitutes our monitoring services." Nor was the library's contact at that time asked to provide clarification on the services being received from Merit.

Further, the library also supports Merit's statement in a letter of July 18, 2005 (Attachment 4), which was an appeal to the Schools and Library Division on the USAC's June 16, 2005 Notification of Commitment Adjustment Letter for FRN#100645. Merit stated, "this service offering is used for providing the applicant (the Detroit Public Library) with the most cost effective means of obtaining Internet access for the twenty-three branch libraries and the Detroit Public Library's main branch. By providing basic end-to-end Internet access to the branch libraries as part of the Detroit Public Library's consortium, each Library branch receives Internet access service at the reduced cost of \$2,520 per additional attachment (branch library) as opposed to the full stand alone fee of \$11,640 on a one-year contract, a \$9,120 savings per year. This reduced cost is the minimum cost to provide each additional library with Internet access service, which is end-to-end shared basic conduit Internet access."

The Detroit Public Library is asking that the FCC overturn the USAC/SLD Denial of September 30, 2005 and that these fees be allowed and funded in the amount of \$44,352.00.

For additional information please contact Timothy E. Cromer, Director, Information Systems, 313-833-4038, [tecromer@detroit.lib.mi.us](mailto:tecromer@detroit.lib.mi.us).

Sincerely,



Nancy Skowronski, Director  
Detroit Public Library  
313-833-3997  
[nskowro@detroit.lib.mi.us](mailto:nskowro@detroit.lib.mi.us)

Attachments 1 - 4



**Universal Service Administrative Company  
Schools & Libraries Division**

**Notification of Commitment Adjustment Letter  
Funding Year 2003: 7/01/2003 - 6/30/2004**

**RECEIVED**  
JUN 21 2005

June 16, 2005

**Debbie Patt  
Merit Network Inc.  
4251 Plymouth Road, Building 1, Suite 2000  
Ann Arbor, MI 48105-2785 4007**

Attachment 1

**Re: SPIN: 143004331  
Form 471 Application Number: 362377  
Funding Year: 2003  
FCC Registration Number  
Applicant Name: DETROIT PUBLIC LIBRARY  
Billed Entity Number: 130943  
Applicant Contact Person: James W. Lawrence**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the adjustments to the funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at [www.universalservice.org/new/2004.asp#083104](http://www.universalservice.org/new/2004.asp#083104) for more information regarding the consequences of not paying the debt in a timely manner.

## TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and the FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org) using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125- Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals option.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options

## FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the applicant detailing the necessary applicant action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or the applicant submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: James W. Lawrence  
DETROIT PUBLIC LIBRARY

## A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

**CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on Form 471.

**SERVICES ORDERED:** The type of service ordered by applicant, as shown on Form 471.

**BILLING ACCOUNT NUMBER:** The account number that you have established with your customer for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.

**ORIGINAL FUNDING COMMITMENT:** This represents the original amount of funding that SLD had reserved to reimburse for the approved discounts for this service for this funding year.

**COMMITMENT ADJUSTMENT AMOUNT:** This represents the amount of funding that SLD has rescinded because of program rule violations.

**ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

**FUNDS DISBURSED TO DATE:** This represents the total funds that have been disbursed for this FRN as of the date of this letter.

**FUNDS TO BE RECOVERED FROM SERVICE PROVIDER:** This represents the amount of Improperly Funds Disbursed to Date for which the service provider has been determined to be primarily responsible. These improperly disbursed funds will have to be recovered from you, the service provider.

**FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report**  
**Form 471 Application Number: 362377**

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Funding Request Number:	1006645
Contract Number:	Z4708
Services Ordered:	INTERNET ACCESS
Billing Account Number:	DED-TLR-122202b
Original Funding Commitment:	<del>\$187,824.00</del>
Commitment Adjustment Amount:	\$44,352.00
Adjusted Funding Commitment:	\$143,472.00
Funds Disbursed to Date:	\$128,368.00
Funds to be Recovered from Service Provider:	\$0.00

**Funding Commitment Adjustment Explanation:**

After a thorough review, it was determined that the funding commitment for this request must be reduced by \$44,352.00. During the course of a review it was determined that funding was provided for the following ineligible items: Monitoring and Maintenance, to monitor ' the health and well being of the Applicants internet access'. The pre-discount cost associated with these items is \$55,440.00. At the applicant's 80 percent discount rate this resulted in an improper commitment of \$44,352.00. FCC rules provide that funding may be approved only for eligible products and/or services. The USAC web site contains a list of eligible products and/or services. See the web site, [www.sl.universalservice.org](http://www.sl.universalservice.org), Eligible Services List. On the SPAC Form, the authorized person certifies at Item 10 that the service provider has billed its customer for services deemed eligible for support. Therefore, SLD has determined that the service provider is responsible for this rule violation. Accordingly, the commitment has been reduced by \$44,352.00 and if the recovery of improperly disbursed funds is required the SLD will seek recovery from the service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR  
CHECK TO ENSURE TIMELY PROCESSING**



Universal Service Administrative Company  
Schools & Libraries Division

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**Administrator's Decision on Invoice Appeal**

September 30, 2005

Karen Alberti  
Merit Network Inc.  
4251 Plymouth Road, Suite 2000, Building 1  
Ann Arbor, MI 48105

**RECEIVED**

**OCT 04 2005**

**RESEARCH & GRANTS**

**Re:** Your appeal of the reduction/denial of your invoice

SLD Invoice Number: 448151  
471 Application Number: 362377  
Funding Request Number(s): 1006645  
Correspondence Dated: September 15, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company has made its decision in regard to your appeal. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your letter of appeal included more than one SLD Invoice Number, please note that for each invoice for which an appeal is submitted, a separate letter is sent.

Funding Request Number(s): 1006645  
Decision on Appeal: **Denied in full**  
Explanation:

During the review of this appeal, it was determined that the SLD service team was consulted during the invoice review to determine the eligibility of the monitoring services provided by your company. The SLD service team has designated these monitoring services as ineligible, hence, that decision will stand. You have not provided any information on appeal that indicates that these services are actually eligible or that we did not have the correct information at the time the invoice was evaluated.

Your Form (472/474) included costs for the following ineligible products and/or services: monitoring services. FCC rules provide that funding may be approved only for eligible products and/or services. 47 C.F.R. §§ 54.502, 54.503. The USAC web site contains a list of eligible products and/or services. *See the web site, [www.sl.universalservice.org](http://www.sl.universalservice.org), Eligible Services List.* It has not been determined



through our review of your appeal that the amount of the request that we reduced was for eligible items. Consequently, the appeal is denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division  
Universal Service Administrative Company

cc: James W. Lawrence  
Detroit Public Library  
5201 Woodward Avenue  
Detroit, MI 48202-4007



4251 Plymouth Road  
Suite 2000  
Ann Arbor, Michigan 48105-2785

Phone: (734) 936-2165  
Fax: (734) 647-3185  
[www.merit.edu](http://www.merit.edu)

September 15, 2004

Karen Alberti  
Merit Network, Inc.  
4251 Plymouth Road, Suite 2000, Building 1  
Ann Arbor, MI 48105

**To Schools and Libraries Division:**

The purpose of this letter is to file an appeal with the Schools and Libraries Division regarding funding that was approved on Form 474 (SLD Invoice# 448151) dated 3/4/04 for Detroit Public Library FRN# 1006645 for funding year 7/1/03-6/30/04. Merit is appealing the decision of the SLD to approve partial funding for the ongoing costs to provide Internet service to the Detroit Public Library (Billed Entity# 130942) main branch and twenty-three branch libraries.

On-going costs to provide Internet service to these libraries were approved for funding on the Funding Decision Commitment Letter dated 7/14/03. Merit Network, Inc. (SPIN# 143004331) invoiced the SLD for payment on the above mentioned Form 474 for the amount of \$174,484.00. However, on the Electronic Remittance Statement dated 9/10/04 (reference# 0433112\_9102004) payment was approved for only \$126,790.40. The balance of \$47,693.60 was not funded and had the notation, "Modified to remove ineligible product or service". (SEE ATTACHMENT 1)

Merit contacted the SLD Invoicing Hotline to obtain more information as to why this partial funding was denied. We were told that a decision was made to deny \$47,693.60 in funding because the "monitoring fees" on the Merit Network invoice to Detroit Public Library were ineligible services. (SEE ATTACHMENT 2) Merit was not asked to provide any documentation on what constitutes our monitoring services. Furthermore, our contact at the Detroit Public Library, Jim Lawrence, has indicated that he was not contacted for clarification on the services being received.

Here is the description, which has been used for several years now, of "monitoring fees" on Merit invoices:  
Monitoring fee - the annual cost for provisioning and providing end-to-end shared basic conduit Internet access service for individual schools within a district or libraries within a library system. It is not for monitoring bandwidth.

In the past we have provided descriptions of our services to USAC reviewers. Merit's monitoring fees are eligible for USF discounts and have been approved for funding by the SLD. We have emailed this description to other reviewers at the SLD, as they review our Form 474s, to provide clarification on our services. (SEE ATTACHMENT 3)

Therefore, Merit is asking that these "monitoring fees" be funded and that an additional amount of \$47,693.60 be approved for payment to Merit for these services. Please contact me if you have any questions or need more information:

Karen Alberti  
Merit Network, Inc., Suite 2000, Building 1, 4251 Plymouth Road, Ann Arbor, MI 48105  
Phone: (734) 936-2165 Fax: (734) 647-3185 Email: [kla@merit.edu](mailto:kla@merit.edu)

This appeal has been approved by Elwood Downing, our Member and Affiliate Services manager. His phone number is (734) 936-2040 and he can be reached by email at [ejd@merit.edu](mailto:ejd@merit.edu).

Sincerely yours,

Karen Alberti  
Administrative Associate

Attachment 4  
Sent Via E-Mail

July 18, 2005

Universal Service Administrative Company  
Schools & Libraries Division

Re: SPIN#: 143004331  
FCC RN#: 0011964491  
Form 471 Application #: 362377  
FRN#: 1006645  
Funding Year: 2003  
Applicant Name: Detroit Public Library  
Billed Entity Number: 130943

To Schools and Libraries Division:

The purpose of this letter is to file an appeal with the Schools and Libraries Division regarding USAC's June 16, 2005 Notification of Commitment Adjustment Letter for FRN# 1006645, Funding Year 2003: 7/1/2003 -- 6/30/2004, which indicates that funding was reduced for specified ineligible Monitoring and Maintenance costs, to monitor 'the health and well being of the Applicants internet access'. USAC has misinterpreted the purpose of Merit's "monitoring and maintenance" service offering.

On September 15, 2004, an appeal letter was sent to School and Libraries Division (see attached Letter of Appeal 9-15-04 and Attachments 1-3), outlining that the "Monitoring and Maintenance" fee is "the annual cost for provisioning and providing end-to-end shared basic conduit Internet access service for individual schools within a district or libraries within a library system. It is not for monitoring bandwidth." This service offering is used for providing the applicant with the most cost effective means of obtaining Internet access for the twenty-three branch libraries and Detroit Public Library's main branch. By providing basic end-to-end Internet access to the branch libraries as part of Detroit Public Library's consortium, each Library branch receives Internet access service at the reduced cost of \$2,520 per additional attachment (branch library) as opposed to the full stand alone fee of \$11,640 on a one-year contract, a \$9,120 savings per year. This reduced cost is the minimum cost to provide each additional library with Internet access service, which is end-to-end shared basic conduit Internet access.

In conclusion, Merit Network, Inc. is in compliance with providing the most cost effective end-to-end shared basic conduit Internet access service for this applicant and the "monitoring and maintenance" fees are eligible for USF funding. Please contact me if you need further clarification.

Sincerely,

Karen Alberti  
Administrative Associate  
Merit Network, Inc.  
1000 Oakbrook Drive, Suite 200, Ann Arbor, MI 48104  
Phone: 734-936-2165 Fax: 734-647-3185 Email: [usf@merit.edu](mailto:usf@merit.edu)